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Report of Industrial Accidents

1912



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STATE OF PENNSYLVANIA

REPORT

OF

INDUSTRIAL ACCIDENTS
COMMISSION

1912

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Pittsburgh.

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Philadelphia.

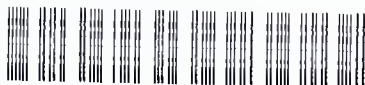
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1912

PRESS OF
ALLEN, LANE & SCOTT
PHILADELPHIA

HARRISBURG, PA., December 31, 1912.

To His Excellency, John K. Tener, Governor of the Commonwealth of Pennsylvania:

SIR:—The Industrial Accidents Commission, appointed in pursuance of the provisions of the Act of June 14, 1911, P. L. 917, respectfully makes report to you, for transmission to the General Assembly as provided in that Act:

Two subjects of investigation were prescribed for us,—the prevention of industrial accidents, and the compensation of injured workmen and their dependents.

The original compilation by this Commission of statistics showing the causes of accidents in the many different industries of Pennsylvania has been neither necessary nor possible. To prepare a set of such statistics, complete enough to be reliable, would have required more time, more authority and more funds than have been given our Commission. Furthermore, it would have been, in the main, a mere duplication of the data which for years past has been gathered and digested by the Department of Factory Inspection, all of which has been freely offered for our use and has been extremely valuable to us. We are greatly assisted also by having the information collected in this country and abroad during the past decade by many other authorities, both public and private, for there is no radical difference between the industrial accidents of Pennsylvania and those of our neighboring States.

It may be stated, with fair exactness, that twenty per cent. of all factory accidents are primarily due to the negligence of the employer, or of those representing him in positions of superintendence; that twenty-five per cent. are chiefly due to the negligence of the injured man himself; that twenty per cent. are due to the negligence of a co-employee of the injured man; while thirty-five per cent. are due to what may be called the hazard of the industry. Each extension of the duties of the employer, however, tends to diminish this last group and to increase the first group of acci-

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dents chargeable to the employee's negligence. Under our present system of compensation for such injuries, an accident of the first of these classes alone furnishes a right of action against the employer, and, even then, the action may be defeated by the defenses of contributory negligence or of assumption of risk. From statistics of all kinds, from a comparison of the records of our Courts of Common Pleas with the records of our Factory Inspection Department, and from our actual experience with cases of this character, we can assert with entire confidence that *in less than five per cent. of the industrial accidents in this State* is a substantial sum (*i. e.*, as much as medical expenses and actual wages lost) recovered by the injured man or his dependents. It will be seen at once that the pecuniary advantage to the employer of a decrease in the number of accidents is hardly great enough to furnish a powerful incentive to the introduction of safety appliances. The factory law, with its threat of punishment for non-compliance, furnishes a stronger incentive. We believe, however, that no "Factory Act" can do as much towards the *prevention* of accidents as a system that will make it directly and immediately expensive to the employer to be careless of the safety of his workmen. This should be borne in mind in weighing the relative advantages of the different systems of workmen's compensation,—a subject mentioned later in this report.

THE FACTORY ACT.

We find in force in Pennsylvania, in the Act of May 2, 1905, P. L. 352, a Factory Act similar in its terms to those of most of the important manufacturing States of this country. We have sought from every source criticisms of the provisions of this law, having begun our task with the impression that this could be strengthened and added to with promptly beneficial results, but we are now agreed that little change is required in the language of the law. What is required is its continued and vigilant enforcement. Something was accomplished under the old Factory Act of 1899, much under the present law, and much yet remains to be

done. It is a matter of efficient administration rather than of legislation. In some of the industrial plants that we have visited we have seen frequent instances of non-compliance with the Act, but this fact is not necessarily indicative of inefficiency in the Department of Factory Inspection, nor of disregard of the law on the part of the employers. It may show only the magnitude of the changes required by the existing law and the impossibility of complying with them all up to the present time. We believe, however, that the Department of Factory Inspection should adopt more stringent measures to compel compliance with that part of the law (Section 11) that requires the guarding of machinery, and we believe that the passage of an adequate compensation law for injured workmen will materially assist the Department in this direction.

The Factory Act seems to us to require amendment in its definition of the kind of establishments covered by it. The administration of the Act has been affected by the vagueness of the definition given in Section 1, and the narrow construction put upon that section has seriously restricted the operations of the Department of Factory Inspection. For this reason, we recommend the change in that section shown in the proposed Act appended to this report as Exhibit "A," page 17.

HOURS OF LABOR FOR WOMEN.

A fertile cause of accidents, recognized by every authority upon the subject, is overwork,—*i. e.*, excessive hours of labor. Many accidents, which in statistical tables are ascribed to the negligence of the injured workman himself, are in reality due entirely to overwork. And this is particularly true of women, whose incapacity for long-continued toil, particularly at periods of illness, is strikingly shown by these statistical reports. The Factory Act of 1905 (Section 3) limits the hours of labor of women to twelve hours per day and sixty hours per week. This provision is not sufficiently restrictive. No other important manufacturing State allows women to be employed in factories for such

long hours as these. In Ohio the limitations are 10 hours per day and 54 hours per week, in New York 10 hours per day and 54 hours per week, in New Jersey 55 hours per week, in Maryland 10 hours per day, in Massachusetts 10 hours per day and 54 hours per week, in Connecticut 10 and 58, and in Illinois 10 hours per day. We feel that we do no injustice to the industries of our State in recommending, as we do in Exhibit "A," the reduction of the limitation of hours of labor for women in industrial establishments to 10 hours per day and 54 hours per week, but in view of the law in this State up to the present, and in view of the laws now obtaining in other States, industrially competitive with Pennsylvania, we believe that this reduction is all that is proper at this time.

REPORTS OF ACCIDENTS.

Undoubtedly further preventive measures will in the future be found to be desirable, and to this end the study of the subject should be continued. We have already in our Bureau of Industrial Statistics an organization equipped for the compilation of the necessary data, and it is plain that information, promptly reported to it after each accident, will in time furnish a basis for legislation far more accurate and complete, and at far less expense to the State, than the incomplete returns obtainable by circular inquiries issued during a short interval by a commission such as ours. It will be much easier to observe the effect of any compensation law adopted by the legislature if such prompt and complete reports are made by the employer. The reliability of such reports will be increased if the employers making them may do so without fear of their production in evidence in any litigation. For these reasons we recommend the proposed law attached hereto as Exhibit "B," page 20.

WORKMAN'S COMPENSATION.

The compensation of injured workmen is a subject that has received exhaustive study in every civilized country; and within the past decade the current of public opinion

in favor of such compensation has become so strong that no argument in its favor is necessary. To contend for the continuance of the old common-law system is futile. That the injured workman should be made whole at the expense of the industry seems now as indisputably right as that the industry should bear the expense of repairing a broken machine. On the other hand, the subject of a just and equitable compensation is rendered so difficult by constitutional limitations, and is necessarily a matter of such delicate adjustment, that to permit it to be controlled by sentimental or demagogic considerations is to invite the total failure of the effort. The varied experience of our ten sister States that have adopted laws on this subject shows that ignorance or insincerity cannot be permitted to interfere if a just and useful result is to be attained. Important everywhere, in Pennsylvania the subject is of extreme importance, because of the industrial leadership of our State. So many persons and so much property are involved that to attempt a reckless experiment in this matter would be a grave moral and economic offense.

Four general systems of compensation for injured workmen have been tried at various times and in various countries. They are:

- (a.) Employer's Liability, based on fault.
- (b.) Compulsory or Elective Insurance Funds.
- (c.) Compulsory Compensation by Employer to Employee.
- (d.) "Elective" Compensation by Employer to Employee.

Our views as to each of these methods and their availability in Pennsylvania are summarized as follows:

EMPLOYER'S LIABILITY.

This means the present system of the common law, with such statutory modification or enlargement of the right of action as may be made by the legislature. However favorable to the employee such new legislation may be, this system will always be open to many objections. These

are so well recognized that mere reference to them will be sufficient. They are (1) the delay while the case is awaiting trial and while appeals are pending, always preventing relief at the moment of the workman's greatest need; (2) the technicality inseparable from hard-fought litigation; (3) the frequent failure of cases through the employee's inability to produce "evidence of negligence;" (4) the success of a plaintiff whose conscience and whose counsel permit him to exaggerate or to lie, while one more scrupulous will be defeated in a case quite as meritorious in fact; (5) the bitterness that nearly always results, to the injury of both employer and employee; (6) the frequency of illogical and unjust verdicts, and the possibility of corrupt verdicts; (7) the waste of litigation in lawyers' fees, witnesses' fees, disturbance of business, and expenses of preparation for trial—a victory for the employer often costing him as much money as would have quite relieved the needs of the employee; and (8) the exorbitant contingent fees often charged by lawyers representing the employee. It is no exaggeration to say that, under this system as now applied in Pennsylvania, not more than one-third of the amount spent by the employer in claim department outlay ever reaches the employee. The balance is absorbed in transmission.

We believe that to discuss the demerits of such a system would be superfluous. It has brought injustice, suffering and discontent. Its disappearance will be welcomed by every thinking man.

COMPULSORY OR ELECTIVE INSURANCE FUNDS.

These are sometimes administered directly by the State itself, as in most continental European countries and in the States of Ohio and Washington, and sometimes by private associations under the general oversight of the State, as in Germany and in Massachusetts. In some cases the employees themselves are required to contribute toward such funds. Almost invariably the payment is made directly from the fund to the injured employee, regardless of any question of negligence, and the employer

is relieved of all personal liability. In some cases, subscription to the insurance fund is compulsory, as in Washington, while in others it is optional with the employer, as in Ohio.

This system undoubtedly has the advantage of securing the payments to the workman entitled to compensation, and this element of security deserves to be borne in mind, but the system is, nevertheless, open to serious criticism. The chief objection that we make to it is that it tends to remove the incentive to vigilant safety-work on the part of the employer, because the pecuniary penalty for carelessness falls, not directly upon him, but upon a fund in which his interest is relatively small. We feel that this incentive to be careful is one of the most important results to be aimed at in the adoption of any system. In reply to this argument against the insurance plan, it is said that the insurance premiums should and would be increased for careless employers, but it is obvious that this punishment will always be remote and uncertain. And where, as in Ohio, the employee is required to pay part of the insurance premium, it is also obvious that he, although perhaps quite blameless, is thus forced by the increased premium, to pay a part of the penalty for his employer's negligence.

Many of these insurance funds are elaborate in their administration, and require a large number of officials to see to their operation. To adopt such a system in Pennsylvania would entail the creation of many new offices.

Another objection, to our minds important, is that the fixing of premiums must of necessity be largely discretionary in the official or officials in charge of the fund. In no other way can the careful employer be protected and the careless punished. As a result, the opportunity for administrative favoritism, for unjust assessment, for irregularity of management is always present. Furthermore, the basic idea of this plan is a compulsory association among all employers in the payment of compensation, without free choice of associates. It is opposed to the idea of individual liberty and full individual responsi-

bility that underlies the whole theory of our government. The fact that it has not yet in any State in America proven successful is, in our minds, a powerful argument against it.

A compulsory insurance act of this description, modeled chiefly upon the German system, has been drafted and strongly urged upon us by representatives of an association of employers. We are earnestly of the opinion that such an act should not be recommended. Disregarding details in which we think the act as submitted is defective, but which could be corrected, we believe it to be open to all of the fundamental objections stated above, and to grave constitutional objections as well. In that it involves a delegation of the power of taxation, we are of the opinion that it violates Section 20 of Article III of the State Constitution. In that the essence of the proposed act—the key of its success and fairness—would be the power of discriminating in insurance rates between individual employers according to the freest discretion and judgment of the rate-fixing authority, we are of the opinion that it would violate Section 1 of Article IX of the State Constitution, which provides that “all taxes shall be uniform upon the same class of subjects * * * and shall be levied and collected under general laws.” We believe, further, that the proposed system would be quite unworkable in its project of taxation of all employers of one or more persons—such as the employers of domestic servants and of farm labor,—for we think that the cost of assessment and collection of the small premiums due from such employers would exceed the premiums themselves. The merits of such a scheme should be very great to justify the creation of the multitude of public and semi-public positions that would be required for its operation, but it is notable that, while its only merit over the system that we propose is in affording an increased security for the compensation payments, no representative of labor has urged its adoption instead of our act. Conceding its success in Germany, where it has been operated in connection with a system of sickness-insurance and old-age pensions, we firmly believe that its adoption in Pennsylvania under

present political and industrial conditions would be intolerable to the employers of the State. At best, it would be but an experiment, practically untried in this country, and we believe that the welfare of too many workmen and too much property is involved to warrant the imposition of an experiment so gigantic upon the industries of Pennsylvania.

We are agreed that the disadvantages of the insurance system outweigh its advantages over the two remaining methods now to be discussed.

COMPULSORY COMPENSATION BY EMPLOYER TO EMPLOYEE.

Under this system, the employer is required to pay directly to the injured employee or his dependents compensation for injury or for death, regardless of any fault that may have led to the accident. As in the insurance fund plans, the amount of compensation payable is so regulated by the nature of the injury, the duration of the disability and the wages of the injured man as to be as nearly as possible automatic in computation. Certainty and promptness of payment are regarded as of prime importance. Safeguards for security of the payment are usually provided, such as giving them the same preferred lien as is given to wages.

This system we regard as unquestionably the best. It places the penalty for dangerous conditions immediately upon the careless employer, while its rewards for vigilant care are prompt and certain. Every safety device that may be installed means a direct money saving to the employer. The retention of an employee who is careless of the safety of his fellows means a direct money loss to the employer. Under this system, the relationship between care and money-profit is plain to everyone, and the interposition of no premium-assessing official is required.

Three laws of this kind deserve study,—the “Sutherland bill” now pending in the Federal Congress, the English Workmen’s Compensation Laws of 1897, 1900 and 1906, and the New York Hazardous Employments Act of 1909. The first of these has not yet gone into effect, and therefore

no conclusions can be drawn from its operation, but it is worth noting that its recommendation by the Sutherland Commission followed a most exhaustive study of the subject. Its constitutionality of course has not yet been settled, but the weight of legal opinion seems to be in favor of the validity of the Act. The English law has met with great success, and is considered by all interests to be a satisfactory system, although its failure to provide adequate definitions of the terms used in it led to a large number of litigated cases before the meaning of the law became settled—a difficulty not peculiar to this kind of legislation. The New York Act was held by the Court of Appeals of that State to offend the “due process of law” clause of the State Constitution, in that it required payments by the employer where he neither was at fault nor had agreed to pay. (*Ives vs. South Buffalo Ry. Co.*, 201 N. Y., 271.) This decision has provoked a storm of discussion and criticism, and it is seemingly irreconcilable with recent decisions of the courts of last resort in Montana and Washington. (*Cunningham vs. Imp. Co.*, 44 Mont., 180; *State vs. Clausen*, 65 Wash., 156.) But we need not enter into this controversy, for the provisions of our own State Constitution, as they now stand, leave no doubt of the impossibility of sustaining such a law. Section 21 of Article III of our Constitution, which prohibits the General Assembly from limiting the damages recoverable for injury or death, certainly would prohibit a law whose essential feature is the exact fixing of compensation and the establishment of the maximum and minimum limits of the payments.

The unquestionable desirability of such a law leads us to recommend the proposed amendment of Section 21 of Article III of the Constitution, attached hereto as “Exhibit C,” page 21.

In the meanwhile, the same result fortunately can be reached in most cases by an indirect method that has proved successful in several other States.

“ELECTIVE” COMPENSATION BY EMPLOYER TO EMPLOYEE.

The essential idea of the Acts that carry out this plan is as follows: The Act begins by enlarging greatly the

common-law liability of the employer. It then sanctions an *agreement* between employer and employee for the adoption of a definite compensation plan, applicable to all cases regardless of fault, and provides that where such agreement is in effect it shall wholly supersede the common law. The acceptance of this compensation plan is facilitated by a provision that it shall be presumed to be agreed to unless expressly rejected by either employer or employee. If the Act is intelligently drawn, it will be found to be to the advantage of both employer and employee to accept the compensation plan rather than to remain under the liability law. The employer, on the one hand, is saved the tremendous expense of litigation under the common law, the delays and time losses incident thereto, the maintenance of an elaborate claim department, the danger of excessive verdicts and the disturbance of business that frequently accompanies a long trial in court. He finds that he can secure insurance against his liability under the "compensation section" as cheaply or more cheaply than under the "liability section" of the law, although such insurance ordinarily protects him against "liability" verdicts only up to \$5,000, while it protects him against every cent of "compensation" payments under the proposed Act. On the other hand, the employee's reasons for acceptance of the compensation plan are quite as strong. He, or his family if he is killed, is protected with certainty, and is not subject to defeat on some abstruse technicality. The payments, though moderate in amount, begin almost at once and continue regularly, as against a possible large verdict received some time in the distant future, long after the distress was most acute. The procedure in case of disagreement is simple and prompt, and lawyers' fees are subject to the control of the court, insuring moderation. It requires the creation of no new tribunals, but utilizes those in existence, thus avoiding increased expenses and making use of existing experience and skill.

In one of the States where this plan has been tried, its success may be gauged by the fact that, although the Act

has been in force for a year, only three employers are known to have rejected the "compensation section." And its effect can be gauged by the further fact that, out of more than two thousand reported cases during the first six months of its operation, only ten were taken into court, most of the latter being simple applications for a commutation of payments in a lump sum instead of periodical installments, while several of the other controversies could have been avoided by the inclusion in the Act itself of carefully drawn definitions of its terms.

In another State where the same plan was resorted to, its operation was ruined by ignorant treatment of the compensation schedule. In a misguided effort to be "liberal," the compensation plan was made so severe as to cost in operation nearly three times as much as the "liability section," with the natural result that practically every employer in the State in question rejected the plan, leaving the liability law in force with all its inherent evils.

As to the constitutionality of the Acts of this sort, we feel the greatest confidence. The objections that were used to defeat the Hazardous Employments Act in New York have no application to Acts of the elective type. The decisions in other States upon the "elective" Acts have been in favor of their validity (*Sexton vs. Newark Dist. Tel. Co.*, N. J. Law Journal, Vol. 34, page 368, and Vol. 35, page 8; *Borgnis vs. Falk Co.*, 147 Wis.. 327; Opinion of Justices, 209 Mass., 607; *State vs. Creamer*, 85 Ohio St., 349), and this is also the opinion given in the communications which we have received from many of the ablest lawyers of the State.

RECOMMENDATION OF ELECTIVE ACT.

For these reasons we have drafted, and now recommend for passage by the Legislature, the form of Workmen's Compensation Law appended hereto as "Exhibit D," page 23.

In the preparation of this bill, we have tried to adopt the best features of the laws of the same kind in other

States and countries; but, with a view to the prevention of controversies and litigation, we have gone further than any other Act in the definition of the terms used. In most cases, if the experience of other States may be relied upon, the Act will be found to be automatic in operation, and unless our precautions are futile the operation of the law ought not to be hindered by the uncertainties that marred the early years of the English law. The schedule of compensation has been prepared with the utmost care, and, while it is more liberal in its allowance of compensation for serious permanent injuries than many similar laws,—that of New Jersey, for example,—this feature is balanced by restricting the allowance for medical attention to a sum more nearly commensurate with the ordinary cost of such attention. We have tried in this way to give directly to the injured man what under some laws is found to go to his medical attendants in excessive fees. Similarly it will be seen that we have endeavored to prevent the extortion of excessive fees for legal services when these are required by the employee.

MUTUAL INSURANCE ASSOCIATIONS.

The natural effect of such legislation as we have recommended will of course be to increase the demand for liability insurance, and it would be unwise to allow this business to be monopolized and the rates for it to be wholly controlled by the existing stock companies. The present laws of Pennsylvania authorize the creation of mutual insurance associations of all other descriptions,—life, fire, accident, cattle, plate glass and what not,—but no provision has been made for the creation of mutual associations for employers' liability insurance. For this reason we have drafted, and append hereto as Exhibit "E," page 43, a law allowing the formation of such associations to insure against liability of employers for the compensation fixed in Article II of the Workmen's Compensation Law. Such associations ought not, we think, to be permitted to gamble on "liability" ver-

dicts, and for this reason we have restricted their field of operation to the compensation section alone. Remembering still that the prime object of all of this legislation is the prevention of accidents, we have given such associations broad powers in the adoption and enforcement of safety regulations. We have also provided for them the same precautions to preserve their assets and assure their solvency as have been provided for stock companies doing similar business.

INSOLVENCY OF INSURED EMPLOYERS.

In the past it has sometimes been found that the insolvency of an employer has prevented the recovery of damages by an injured employee, although the employer may have carried insurance in a solvent company. The liability of the insurance company being to the employer only, and not to the employee, the latter has had no remedy for this state of affairs. We learn, however, by the testimony of several insurance experts who have appeared before us, that this possible excuse for non-payment is not considered in the fixing of insurance rates. We therefore recommend, in Exhibit "F," page 52, a law requiring, in all such insurance policies against workman's compensation, a covenant by the insurer to pay the employee directly should the employer default. This law will not increase the employer's premiums, will do no injustice to the insurer, and will afford to the worker a protection to which he is entitled.

Another objectionable feature of our present system of employers' liability insurance is the custom of limiting the insurer's obligation in the case of a single accident or group of accidents, yet it is not customary for the insurance companies in fixing rates to make any allowance in return for this limitation. Hence, if a catastrophe occurs, the employer is deprived of the protection of his insurance just at the moment when he needs it most. We therefore have included in Exhibit "F" a section prohibiting such limitations.

NECESSITY OF ANOTHER COMMISSION.

If the legislature shall see fit to adopt our recommendations, by the passage of the bills that accompany this report, we believe that it will be of great advantage to have the operation of those laws carefully studied by a commission during the following two years. If any modifications of this legislation should prove necessary, they probably will best be framed by such a body. We therefore recommend, in the bill attached hereto as Exhibit "G," page 54, the creation of a commission of seven, made up of representatives of the same interests as are represented in our commission.

THE COMMISSION'S PROCEDURE.

Before the preparation of any of these bills was commenced, the Commission held public hearings in Harrisburg, Philadelphia and Pittsburgh, at which all persons interested were urged to appear and present their views, since it was our desire to learn the general public sentiment on the subjects of our work. The recognition of the need for new legislation was very apparent and very general, but the details by which the desired result was to be reached had not been the subject of much general consideration. The Commission then, for its own instruction, particularly in the matter of accident prevention, visited and inspected a number of representative manufacturing plants in different parts of the State, including a textile factory, a shipyard, a coal mine, an engine-building plant and several iron furnaces and steel works. Frequent executive sessions were then held, during which the laws considered necessary were drawn, discussed and revised. These Acts were then in every instance published in tentative form as soon as they had been approved by the Commission, and thousands of copies were distributed on applications made to the Commission.

After a sufficient time had elapsed for careful consideration to be given to our work, we again held public hearings in Harrisburg, Philadelphia and Pittsburgh, at which the

fullest criticism of our published bills was invited. These meetings were well attended, and an abundance of criticism was forthcoming both by the speakers at our hearings and in a large number of written communications received by us; but to our great satisfaction it was found that in the great majority of instances this criticism was favorable to our work. Many suggestions of changes in detail and phraseology have been made to us, and such of them as we felt would lead to greater fairness or certainty have been gladly adopted. But it has been gratifying in the extreme to find that the proposed legislation has met with the heartiest approval of employers and employees alike, as well as of lawyers, insurance experts and economists.

More than one-third of the \$15,000 appropriation for the expenses of the Commission remains unused.

From you, sir, from all the officers of your administration with whom we have come in contact, from the members of similar commissions in several other States, from associations of employers and employees too numerous to mention, from insurance companies and their officers, and from many public-spirited members of the bar, we have received the most cordial support and assistance in our work.

You have given us an unusual opportunity to serve our State. Our hope is that the work that has been done will be worthy of our loyalty to her and our pride of her.

Respectfully submitted,

J. B. COLAHAN, JR.,
JOHN J. CUSHING,
FRANCIS FEEHAN,
GEO. C. HETZEL,
MORRIS WILLIAMS,
FRANCIS H. BOHLEN,
D. A. REED.

EXHIBIT "A."**AN ACT.**

Amending an Act entitled "An Act to regulate the employment, in all kinds of industrial establishments, of women, by fixing the hours of labor for women; to provide for the safety of all employees in all industrial establishments, and of men, women, and children in school-houses, academies, seminaries, colleges, hotels, hospitals, store-houses, office buildings, public halls and places of amusements, in which proper fire-escapes, exits and extinguishers are required; to provide for the health of all employees, and of men, women, and children in all such establishments, storehouses and buildings by proper sanitary appliances; and to provide for the appointment of inspectors, office clerks and others, who, with the Chief Factory Inspector, to enforce the same, shall constitute the Department of Factory Inspection, to enforce the same, and provide penalties for violations of the provisions thereof; fixing the term and salaries of the Chief Factory Inspector and his appointees," approved the second day of May, Anno Domini one thousand nine hundred and five, defining the terms "industrial establishment" and "establishment" as used in said Act, and further limiting the hours of labor for women.

SECTION I. Be it enacted, etc., That Section I of an Act entitled "An Act to regulate the employment, in all kinds of industrial establishments, of women, by fixing the hours of labor for women; to provide for the safety of all employees in all industrial establishments, and of men, women, and children in school-houses, academies, seminaries, colleges, hotels, hospitals, store-houses, office buildings, public halls and places of amusements, in which proper fire-escapes, exits and extinguishers are required to provide for the health of all employees, and of men, women, and children in all such establishments, store-houses and buildings by proper sanitary appliances, and to provide for the appointment of inspectors, office clerks and others, who, with the Chief Factory Inspector shall

constitute the Department of Factory Inspection to enforce the same, and providing penalties for violations of the provisions thereof; fixing the term and salaries of the Chief Factory Inspector and his appointees," approved the second day of May, Anno Domini one thousand nine hundred and five, which reads as follows:

"SECTION 1. Be it enacted, etc., That the term 'establishment,' where used for the purpose of this act, shall mean any place within this Commonwealth other than where domestic, coal mining or farm labor is employed; where men, women, or children are engaged and paid a salary or wages by any person, firm or corporation, and where such men, women, or children are employees in the general acceptance of the term," be and the same is hereby amended to read as follows:

"SECTION 1. Be it enacted, etc., That the terms 'establishment' and 'industrial establishment' wherever used in this act shall not include a home, coal-mine, farm, hospital or asylum but shall include every other place within this Commonwealth where men, women, or children are employed in manual labor by any person, firm or corporation."

SECTION 2. That Section 3 of said act, which reads as follows:

"SECTION 3. No minor under sixteen, and no female, shall be employed in any establishment for a longer period than sixty hours in any one week, nor for a longer period than twelve hours in any one day. No minor under sixteen shall be employed in any establishment between the hours of nine post meridian and six ante meridian: Provided, That where the material in process of manufacture requires the application of manual labor for an extended period after nine o'clock post meridian, to prevent waste or destruction of said material, male minors over fourteen years of age, and who have not been employed in or about such establishment between the hours of six ante

meridian and nine post meridian, may be employed, for not more than nine consecutive hours in any one day, after nine post meridian: And provided further, That in establishments where night work is hereby permitted to prevent waste or destruction, and where the nature of the employment requires two or more working-shifts in the twenty-four hours, males over fourteen years of age may be employed, partly by day and partly by night: Provided, Said employment does not exceed nine consecutive hours: And provided further, That retail mercantile establishments shall be exempt from the provisions of this section on Saturday of each week, and during a period of twenty days beginning with the fifth day of December and ending with the twenty-fourth day of the same month: Provided, That during the said twenty days preceding the twenty-fourth day of December, the working hours shall not exceed ten hours per day, or sixty hours per week;" be and the same is hereby amended to read as follows:

"SECTION 3. No minor under sixteen, and no female, shall be employed in any establishment for a longer period than fifty-four hours in any one week, nor for a longer period than ten hours in any one day. No minor under sixteen shall be employed in any establishment between the hours of nine post meridian and six ante meridian."

SECTION 3. That all acts and parts of acts inconsistent herewith are hereby repealed.

EXHIBIT "B."

AN ACT

REQUIRING EMPLOYERS TO MAKE REPORT TO THE BUREAU OF INDUSTRIAL STATISTICS OF ACCIDENTS TO EMPLOYEES, AND PRESCRIBING A PENALTY FOR NON-COMPLIANCE THEREWITH.

SECTION 1. Be it enacted, etc., That within thirty days after the beginning of the disability of an employee because of any personal injury caused by an accident occurring in the course of his employment, the employer, whether a person, firm or corporation, shall make report of such accident to the Bureau of Industrial Statistics. Such report shall set forth the name, address and nature of business of the employer; name, address, sex, age, nationality and occupation of the employee; date, day of week, hour, place and character of the accident; and the nature of the injury and the duration of the disability or probable disability, as far as the same can be ascertained. Such employer shall also, upon request of the Bureau of Industrial Statistics, make such further report as may reasonably be required by it.

SECTION 2. Any person, firm or corporation, having knowledge of the occurrence of such personal injury to an employee in the course of employment, who shall fail to make report as aforesaid, shall be liable to the Commonwealth for a penalty of one hundred dollars, to be recoverable by action brought by said Bureau.

SECTION 3. Reports made in accordance with this act shall not be evidence against the employer in any proceeding either under the Workmen's Compensation Law of 1913 or otherwise.

SECTION 4. No employer who has made the report required by this act shall be required to make any other or further report of such accident to any other department of the government of the Commonwealth.

SECTION 5. This Act shall not apply to casual employments, nor to accidents resulting in disability continuing less than two days.

EXHIBIT "C."

A JOINT RESOLUTION.

PROPOSING AN AMENDMENT TO SECTION TWENTY-ONE OF
ARTICLE THREE OF THE CONSTITUTION OF PENNSYLVANIA.

SECTION 1. Be it resolved by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, That the following amendment to the Constitution of the Commonwealth of Pennsylvania be and the same is hereby proposed in accordance with the eighteenth Article thereof:—

Amended Section Twenty-one, Article Three, of the Constitution of the Commonwealth of Pennsylvania, which reads as follows:

“No act of the General Assembly shall limit the amount to be recovered for injuries resulting in death, or for injuries to persons or property; and, in case of death from such injuries, the right of action shall survive, and the General Assembly shall prescribe for whose benefit such actions shall be prosecuted. No act shall prescribe any limitations of time within which suits may be brought against corporations for injuries to persons or property, or for other causes, different from those fixed by general laws regulating actions against natural persons, and such acts now existing are avoided;”

so that it shall read as follows:

“The General Assembly may enact laws requiring the payment by employers, or employers and employees jointly, of reasonable compensation for injuries to employees arising in the course of their employment and for occupational diseases of employees, whether or not such injuries or diseases result in death, and regardless of fault of employer

or employee, and fixing the basis of ascertainment of such compensation and the maximum and minimum limits thereof, and providing special or general remedies for the collection thereof; but in no other cases shall the General Assembly limit the amount to be recovered for injuries resulting in death, or for injuries to persons or property; and, in case of death from such injuries, the right of action shall survive, and the General Assembly shall prescribe for whose benefit such actions shall be prosecuted. No act shall prescribe any limitations of time within which suits may be brought against corporations for injuries to persons or property, or for other causes, different from those fixed by general laws regulating actions against natural persons, and such acts now existing are avoided."

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EXHIBIT "D."

AN ACT

DEFINING THE LIABILITY OF AN EMPLOYER TO PAY DAMAGES FOR INJURIES RECEIVED BY AN EMPLOYEE IN THE COURSE OF EMPLOYMENT, ESTABLISHING AN ELECTIVE SCHEDULE OF COMPENSATION AND REGULATING PROCEDURE FOR THE DETERMINATION OF LIABILITY AND COMPENSATION THEREUNDER.

ARTICLE I.

Damages by Action at Law.

SECTION 1. *Be it enacted*, etc., That in any action brought to recover damages for personal injury to an employee in the course of his employment, or for death resulting from such injury, it shall not be a defense

(a.) That the injury was caused in whole or in part by the negligence of a fellow employee, or

(b.) That the employee had assumed the risk of the injury, or

(c.) That the injury was caused in any degree by the negligence of such employee, unless it be established that the injury was caused by such employee's intoxication or by his reckless indifference to danger. The burden of proving such intoxication or reckless indifference to danger shall be upon the defendant, and the question shall be one of fact to be determined by the jury.

SECTION 2. The employer shall be liable for the negligence of all employees, while acting within the scope of their employment, including engineers, chauffeurs, miners, mine-foremen, fire-bosses, mine superintendents, plumbers, officers of vessels, and all other employees licensed by the State or other governmental authority, if the employer be allowed by law the right of free selection of such employees from the class of persons thus licensed.

SECTION 3. An employer, who permits the entry, upon premises occupied by him or under his control, of a laborer or an assistant hired by an employee or contractor for the performance, upon such premises, of a part of the employer's regular business entrusted to such employee or contractor, shall be liable to such laborer or assistant in the same manner and to the same extent as to his own employee.

SECTION 4. No agreement, composition or release of damages made before the happening of any accident, except the agreement defined in Article II of this act, shall be valid or shall bar a claim for damages for the injury resulting therefrom, and any such agreement, other than that defined in Article II herein, is declared to be against the public policy of this Commonwealth. The receipt of benefits from any association, society or fund to which the employee shall have been a contributor, shall not bar the recovery of damages by action at law nor the recovery of compensation under Article II hereof; and any release executed in consideration of such benefits shall be void.

ARTICLE II.

Elective Compensation.

SECTION 1. When employer and employee shall by agreement, either express or implied, as hereinafter provided, accept the provisions of Article II of this act, compensation for personal injury to or for the death of such employee by an accident in the course of his employment shall be made in all cases by the employer without regard to negligence, according to the schedule contained in Sections 5 and 6 of this Article; provided that no compensation shall be made when the injury or death be intentionally self-inflicted, but the burden of proof of such fact shall be upon the employer.

The terms "injury" and "personal injury," as used in this Article, shall be construed to mean only violence to the

physical structure of the body, and such disease or infection as naturally results therefrom; and wherever death is mentioned as a cause for compensation under this Article, it shall mean only death resulting from such violence and its resultant effects and occurring within three hundred weeks after the accident. The term "injury by an accident in the course of his employment," as used in this Article, shall not include an injury caused by an act of a third person intended to injure the employee because of reasons personal to him and not directed against him as an employee, or because of his employment, but shall include all other injuries sustained while the employee is actually engaged in the furtherance of the business or affairs of the employer, whether upon the employer's premises or elsewhere, and shall include all injuries caused by the condition of the premises or by the operation of the employer's business or affairs thereon sustained by the employee, who though not so engaged, is injured upon the premises occupied by or under the control of the employer or upon which the employer's business or affairs are being carried on, the employee's presence thereon being required by the nature of his employment.

SECTION 2. Such agreement shall be an acceptance of all the provisions of Article II of this Act, and shall operate as a surrender by the parties thereto of their rights to any form or amount of compensation or damage for any injury or death occurring in the course of the employment, or to any method of determination thereof, other than as provided in Article II of this Act. Such agreement shall bind the employer and his personal representatives and the employee, his or her wife or husband, widow or widower, next of kin and other dependents.

SECTION 3. (a.) In every contract of hiring made after June 30, 1913, and in every contract of hiring renewed or extended by mutual assent, expressed or implied, after said date, it shall be conclusively presumed that the parties have accepted the provisions of Article II of this act, and have

agreed to be bound thereby, unless there be, at the time of the making, renewal or extension of such contract, an express statement in writing from either party to the other that the provisions of Article II of this act are not intended to apply, and unless a true copy of such written statement, accompanied by proof of service thereof upon the other party setting forth under oath or affirmation the time, place and manner of such service, be filed within ten days after such service in the Bureau of Industrial Statistics of this Commonwealth. Every contract of hiring, oral, written or implied from circumstances, now in operation or made or implied on or before June 30, 1913, shall be conclusively presumed to continue subject to the provisions of Article II hereof, unless either party shall on or before June 30, 1913, in writing have notified the other party to such contract that the provisions of Article II hereof are not intended to apply, and unless there shall be filed in the Bureau of Industrial Statistics a true copy of such notice, together with proof of service, within the time and in the manner hereinabove prescribed; provided, however, that the provisions of this Section shall not be so construed as to impair the obligation of any contract now in force. In the employment of minors, Article II shall be presumed to apply, unless the said written notice be given by or to the parent or guardian of the minor. It shall not be lawful for any officer or agent of this Commonwealth, or for any county, city, borough or township therein, or for any officer or agent thereof, or for any other governmental authority created by the laws of this Commonwealth, to give such notice of rejection of the provisions of this Article to any employee of the State or of such governmental agency.

(b.) After June 30, 1913, an employer, who permits the entry, upon premises occupied by him or under his control, of a laborer or an assistant hired by an employee or contractor for the performance, upon such premises, of a part of the employer's regular business entrusted to that employee or contractor, shall be conclusively presumed to have agreed to pay to such laborer or assistant compensation in

accordance with the provisions of Article II, unless the employer shall post, in a conspicuous place upon the premises where the laborer's or assistant's work is done, a notice of his intention not to pay such compensation, and unless there be filed with the Bureau of Industrial Statistics within ten days thereafter a true copy of such notice, together with proof of the posting of the same, setting forth upon oath or affirmation the time, place and manner of such posting; and after June 30, 1913, any such laborer or assistant who shall enter upon premises occupied by or under the control of such employer for the purpose of doing such work shall be conclusively presumed to have agreed to accept the compensation provided in Article II, in lieu of his right of action at common law or under Article I, unless he shall have given notice in writing to the employer, at the time of entering upon such employer's premises for the purpose of doing his work, of his intention not to accept such compensation, and unless within ten days thereafter, there shall have been filed with the Bureau of Industrial Statistics a true copy of such notice accompanied by proof of service thereof upon such employer, setting forth under oath or affirmation the time, place and manner of such service. And in such cases, where Article II binds such employer and such laborer or assistant, it shall not be in effect between the intermediate employer or contractor and such laborer or assistant, unless otherwise expressly agreed.

SECTION 4. The contract for the operation of the provisions of Article II of this act may be terminated prior to any accident by either party upon sixty days' notice to the other in writing, if a copy of such notice, with proof of service be filed in the Bureau of Industrial Statistics, as provided in Section 3 of this Article.

SECTION 5. The following schedule of compensation is hereby established for injuries resulting in disability:

(a.) For the first three hundred weeks after the fourteenth day of total disability, fifty per centum of the wages

received at the time of injury, but the compensation shall not be more than ten dollars per week nor less than five dollars per week; provided that, if at the time of injury the employee receives wages of less than five dollars per week, then he shall receive the full amount of such wages per week as compensation. And after the first three hundred weeks of total disability, for the remainder of the life of the employee, forty per centum of the wages received at the time of the injury, but the compensation shall not be more than eight dollars per week nor less than four dollars per week; provided that if at the time of the injury the employee receive wages of less than four dollars per week, then he shall receive the full amount of such wages as compensation. Nothing in this clause shall require the payment of compensation after disability shall cease. Should partial disability be followed by total disability, the period of three hundred weeks mentioned in this clause of this section shall be reduced by the number of weeks during which compensation was paid for such partial disability.

(b.) For disability partial in character (except the particular cases mentioned in clause (c.)), fifty per centum of the difference between the wages received at the time of injury and the earning power of the employee thereafter; but such compensation shall not be more than ten dollars per week. This compensation shall be paid during the period of such partial disability; not, however, beyond three hundred weeks after the fourteenth day of such disability. Should total disability be followed by partial disability, the period of three hundred weeks mentioned in this clause shall be reduced by the number of weeks during which compensation was paid for such total disability.

(c.) For all disability resulting from permanent injuries of the following classes, the compensation shall be exclusively as follows:

For the loss of a hand, fifty per centum of wages during one hundred and seventy-five weeks.

For the loss of an arm, fifty per centum of wages during two hundred and fifteen weeks.

For the loss of a foot, fifty per centum of wages during one hundred and fifty weeks.

For the loss of a leg, fifty per centum of wages during two hundred and fifteen weeks.

For the loss of an eye, fifty per centum of wages during one hundred and twenty-five weeks.

For the loss of any two or more of such members, not constituting total disability, fifty per centum of wages during the aggregate of the periods specified for each.

The loss of both hands or both arms, or both feet, or both legs, or both eyes shall constitute total disability, to be compensated according to the provisions of clause (a.).

Amputation between the elbow and the wrist shall be considered as the equivalent of the loss of a hand, and amputation between the knee and ankle shall be considered as the equivalent of the loss of a foot. Amputation at or above the elbow shall be considered as the loss of an arm, and amputation at or above the knee shall be considered as the loss of a leg. Permanent loss of the use of a hand, arm, foot, leg or eye shall be considered as the equivalent of the loss of such hand, arm, foot, leg or eye.

This compensation shall not be more than ten dollars per week nor less than five dollars per week; provided that, if at the time of injury the employee receives wages of less than five dollars per week, then he shall receive the full amount of such wages per week as compensation.

(d.) No compensation shall be allowed for the first fourteen days after disability begins, except as hereinafter provided in clause (e.) of this section.

(e.) During the first fourteen days after disability begins the employer shall furnish reasonable surgical, medical and hospital services, medicines and supplies, as and when needed, not to exceed twenty-five dollars in value, unless the employee refuses to allow them to be furnished by the employer.

(f.) Should the employee die as a result of the injury, the period during which compensation shall be payable to his dependents under Section 6 of this Article shall be

reduced by the period during which compensation was paid to him in his lifetime under this Section of this Article. No reduction shall be made for the amount which may have been paid for medical and hospital services and medicines nor for the expenses of the last sickness and burial. Should the employee die from some other cause than the injury, the liability for compensation shall cease.

SECTION 6. In case of death, compensation shall be computed on the following basis, and distributed to the following persons:

1. To the child or children, if there be no widow nor widower entitled to compensation, twenty-five per centum of wages of deceased, with ten per centum additional for each child in excess of two with a maximum of sixty per centum, to be paid to their guardian.

2. To the widow or widower, if there be no children, twenty-five per centum of wages.

3. To the widow or widower, if there be one child, forty per centum of wages.

4. To the widow or widower, if there be two children, forty-five per centum of wages.

5. To the widow or widower, if there be three children, fifty per centum of wages.

6. To the widow or widower, if there be four children, fifty-five per centum of wages.

7. To the widow or widower, if there be five children or more, sixty per centum of wages.

8. If there be neither widow, widower nor children, then to the father and mother, or the survivor of them, if dependent to any extent upon the employee for support at the time of his death, twenty per centum of wages.

9. If there be neither widow, widower, children nor dependent parent, then to the brothers and sisters, if

actually dependent to any extent upon the decedent for support at the time of his death, fifteen per centum of wages for one brother or sister, and five per centum additional for each additional brother or sister, with a maximum of twenty-five per centum; such compensation to be paid to their guardian.

10. Whether or not there be dependents as aforesaid, the reasonable expenses of last sickness and burial, not exceeding one hundred dollars (without deduction of any amounts theretofore paid for compensation or for medical expenses), payable to the dependents, or if there be no dependents then to the personal representatives of the deceased.

Compensation shall be payable under this Section to or on account of any child, brother or sister, only if and while such child, brother and sister, is under the age of sixteen. No compensation shall be payable under this Section to a widow, unless she was living with her deceased husband at the time of his death or was then actually dependent upon him for support. No compensation shall be payable under this Section to a widower, unless he be incapable of self-support at the time of his wife's death and be at such time dependent upon her for support. The terms "child" and "children" shall include step-children and adopted children if members of decedent's household at the time of his death, and shall include posthumous children. Should any dependent of a deceased employee die, or should the widow or widower remarry, or should the widower become capable of self-support, the right of such dependent or such widow or widower to compensation under this Section shall cease. If the compensation payable under this Section to any person shall for any cause cease, the compensation to the remaining persons entitled thereunder shall thereafter be the same as would have been payable to them had they been the only persons entitled to compensation at the time of the death of the deceased.

The wages upon which death compensation shall be based shall not in any case be taken to exceed twenty dollars per week nor to be less than ten dollars per week. This compensation shall be paid during three hundred weeks, and in the case of children entitled to compensation under Clause 1 of this Section the compensation of each child shall (if the other parent be dead or have abandoned such child) continue until such child reach the age of sixteen, at the rate of fifteen per centum of wages if there be but one child, with ten per centum additional for each additional child, with a maximum of fifty per centum.

SECTION 7. Except as hereinafter provided, all compensation payable under this article shall be payable in periodical installments, as the wages of the employee were payable before the accident.

Wherever in this article the term "wages" is used, it shall be construed to mean the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the accident, and shall not include gratuities received from the employer or others, nor shall it include board, lodging or similar advantages received from the employer, unless the money value of such advantages shall have been fixed by the parties at the time of hiring. In occupations involving seasonal employment or employments dependent upon the weather, the employee's weekly wages shall be taken to be one-fiftieth of the total wages which he has earned from all occupations during the year immediately preceding the accident, unless it be shown that during such year, by reason of exceptional causes, such method of computation does not ascertain fairly the earnings of the employee, in which case the period for calculation shall be extended so far as to give a basis for the fair ascertainment of his average weekly earnings. In continuous employments, if immediately prior to the accident the rate of wages was fixed by the day or hour, or by the output of the employee, his weekly wages shall be taken to be five and one-half

times his average earnings at such rate for a working day of ordinary length, excluding earnings from overtime and using as the basis of calculation his earnings during so much of the preceding six months as he worked for the same employer. Where the employee is working under concurrent contracts with two or more employers, his wages from all employers shall be considered as if earned from the employer liable for compensation.

SECTION 8. Compensation under this article to alien dependent widows, children and parents, not residents of the United States, shall be the same in amount as is provided in each case for residents, except that, at any time within one year after the death of the injured employee, the employer may, at his option, commute all future installments of compensation to be paid to alien dependents not residents of the United States by paying to such alien dependents two-thirds of the total amount of such future installments of compensation. Alien widowers, brothers and sisters not residents of the United States shall not be entitled to any compensation.

SECTION 9. Unless the employer shall have actual knowledge of the occurrence of the injury, or unless the employee or some one on his behalf, or some of the dependents or some one on their behalf, shall give notice thereof to the employer within fourteen days after the accident, no compensation shall be due until such notice be given or knowledge obtained. If notice be given or the knowledge obtained after fourteen days but within thirty days after the accident, the delay shall not bar compensation unless the employer shall show that he was prejudiced thereby, and then only to the extent of such prejudice. If the notice be given or the knowledge obtained after thirty days but within ninety days after the accident, and if the employee or other beneficiary shall show that his delay in giving notice was due to his mistake or ignorance of fact or of law, or to his physical or mental inability,

or to fraud, misrepresentation or deceit, or to any other reasonable cause or excuse, then compensation shall be allowed, except to the extent that the employer shall show that he was prejudiced by such delay. Unless knowledge be obtained or notice given within ninety days after the accident, no compensation shall be allowed.

SECTION 10. The notice referred to in Section 9 hereof shall be substantially in the following form:

To (name of employer)

You are hereby notified that an injury of the following character () was received by (name of employee injured), who was in your employment at (place) while engaged as (kind of employment) on or about the () day of () A. D. (), and that compensation will be claimed therefor.

Date:

Signed () :

but no variation from this form shall be material if the notice be sufficient to inform the employer that a certain employee, by name, received an injury, the character of which is described in ordinary language, in the course of his employment on or about a time specified and at or near a place specified.

SECTION 11. The notices referred to in Section 3 and Section 9 hereof may be served personally upon the employer, or upon the manager or superintendent in charge of the works or business in which the accident occurred, or by sending them through the registered mail to the employer at his or its last known residence or place of business, or if the employer be a corporation, either foreign or domestic, then upon the president, vice-president, secretary or treasurer thereof. Knowledge of the occurrence of the injury on the part of any of said agents shall be the knowledge of the employer.

SECTION 12. After an injury, the employee, if so requested by his employer, must submit himself for examination at some reasonable time and place, and as often as may be reasonably requested, to a physician or physicians legally authorized to practice under the laws of such place, who shall be selected and paid by the employer. If the employee requests, he shall be entitled to have a physician or physicians of his own selection, to be paid by him, present to participate in such examination. For all examinations, after the first, the employer shall pay the reasonable traveling expenses and loss of wages incurred by the employee in order to submit to such examination. The refusal of the employee to submit to such examination shall deprive him of the right to compensation under this Article during the continuance of such refusal and the period of such refusal shall be deducted from the period during which compensation would otherwise be payable.

SECTION 13. In case of a failure to agree upon a claim for compensation under this Article between the employer and employee, or the dependents of the employee, either party may submit the claim, as to questions of fact, the nature and effect of the injuries and the amount of compensation due therefor according to this Article, to the court of common pleas of the county in which the accident occurred, or of the county in which the adverse party resides or has a permanent place of business, or by agreement of the parties to the court of common pleas of any other county, which courts shall hear and determine such disputes in a summary manner, and their decisions as to all questions of fact shall be conclusive.

SECTION 14. In case of personal injury, all claims for compensation shall be forever barred unless, within one year after the accident, the parties shall have agreed upon the compensation payable under this Article, or unless, within one year after the accident, one of the

parties shall have filed a petition as provided in Section 15 hereof. In cases of death, all claims for compensation shall be forever barred unless, within one year after the death, the parties shall have agreed upon the compensation under this Article, or unless within one year after the death, one of the parties shall have filed a petition as provided in Section 15 hereof. Where, however, payments of compensation have been made in any case, said limitation shall not take effect until the expiration of one year from the time of the making of the last payment.

SECTION 15. Procedure in case of dispute shall be as follows:

Either party may present a petition to said court or any judge thereof setting forth the names and residences of the parties and the facts relating to employment at the time of the accident, the extent and character of the injury, the amount of wages received at the time of the accident, the knowledge of the employer or notice of the occurrence of the injury, and such other facts as may be necessary and proper for the information of the said court, and shall state the matter or matters in dispute and the contention of the petitioner with reference thereto. This petition shall be verified by the oath or affirmation of the petitioner.

Upon the presentation of such petition, the same shall be filed with the prothonotary of the court of common pleas, and the court shall fix a time and place for the hearing thereof not less than three weeks after the date of the filing of said petition. A copy of said petition and order shall be served upon the adverse party as a summons in a civil action may be served. Within seven days after the service of such notice (unless the time be extended by the court for cause shown), the adverse party shall file an answer to said petition, which shall admit or deny the substantial averments thereof, and shall state the contention of the answering party with reference to the matters in dispute. The answer shall be verified in

like manner as the petition. If no answer be filed as aforesaid, evidence shall be offered at the hearing by the petitioner only. The court shall in every case have authority to allow amendments of the petition or answer, and to suspend the proceedings during the refusal of the employee to submit to the examination required by Section 12 hereof.

At the time fixed for hearing or any adjournment thereof, the said court or any judge thereof shall hear the witnesses, and in a summary manner decide the merits of the controversy. This decision, called an award, shall be in writing and filed with the prothonotary of the court of common pleas, and shall contain a brief statement of the facts as determined by said court. Costs may be awarded by said court in its discretion, and when so awarded, the same costs shall be allowed, taxed and collected as are allowed, taxed and collected for like services in the same court. After petition filed, the court of common pleas may, in its discretion, upon motion of either party, or of its own motion, appoint one or more impartial physicians or surgeons to examine the injuries of the claimant and to report thereon to the court. Said court shall have power to fix the compensation of such physicians or surgeons, and to tax the same as a part of the costs of the proceedings. The report of any physicians or surgeons appointed by the court as aforesaid shall be filed with the prothonotary and shall be a part of the record and shall be open to inspection by both parties. Such report shall not be conclusive of the facts therein stated, but shall be advisory only. Appeals may be taken from the award of the court of common pleas to the Supreme or Superior Courts in such manner and upon such terms as the Supreme Court shall by rule prescribe, but no appeal shall operate as a supersedeas unless allowed by the trial or appellate court, except where the compensation shall have been commuted as provided in Section 16 of this Article. Cases arising under this act shall have precedence, both in the courts of common pleas and in the appellate courts, over all other civil cases.

SECTION 16. The compensation contemplated by this Article may be commuted by said court of common pleas, at its present value when discounted at six per cent. interest, with annual rests, disregarding the probability of the beneficiary's death (except in commuting payments due under Clause (a.) Section 5 of this Article,) upon application of either party, with due notice to the other, if it appear that such commutation will be for the best interest of the employee or the dependents of the deceased employee, or that it will avoid undue expense or undue hardship to either party, or that such employee or dependent has removed or is about to remove from the United States, or that the employer has sold or otherwise disposed of the whole or the greater part of his business or assets. Except as provided in Section 8 hereof and in this Section, no commutation of compensation shall be made.

An agreement or award of compensation may be modified at any time by a subsequent agreement, or may be reviewed by said court upon the application of either party on the ground that the incapacity of the injured employee has subsequently increased or diminished or that the status of the dependent has changed. In such case, the provisions of Sections 12 and 15 of this Article with reference to medical examination shall apply.

At any time after the entry of the award, a sum equal to all future installments of compensation may, (where death or the nature of the injury renders the amount of future payments certain) by leave of court, be paid by the employer to any savings bank, trust company or life insurance company in good standing and authorized to do business in this State and having an office in the county in which the award was entered, and such sum, together with all interest thereon, shall thereafter be held in trust for the employee or the dependents of the employee, who shall have no further recourse against the employer. The payment of such sum by the employer, evidenced by the receipt of the trustee noted upon the prothonotary's docket, shall

operate as a satisfaction of said award as to the employer. Payments from said fund shall be made by the trustee in the same amounts and at the same periods as are herein required of the employer until said fund and interest shall be exhausted. In the appointment of the trustee, preference shall be given, in the discretion of the court, to the choice of the employee or the dependents of the deceased employee.

SECTION 17. The right of compensation granted by this Article of this act shall have the same preference (without limit of amount) against the assets of the employer as is now or may hereafter be allowed by law for a claim for unpaid wages for labor. Claims or payments due under this Article of this act shall not be assignable, and (except as provided in Section 2 of Article III hereof) shall be exempt from all claims of creditors and from levy, execution or attachment, which exemption may not be waived.

SECTION 18. Where the employer and the employee, or the dependents of the employee, shall, after any accident, agree upon the compensation payable hereunder for such accident, a memorandum of such agreement, signed by the parties, may be filed with the prothonotary of said court of common pleas. The costs of the prothonotary for such service shall be allowed, taxed and collected as heretofore upon a confession of judgment. When thus filed, such agreement shall have the same effect as if it were an award of the court, as provided in Section 15 hereof, but shall be subject to review by the court for fraud, mistake or other cause shown; provided, however, that nothing in this Section shall be construed to permit a commutation of payments, except as provided in Sections 8 and 16 hereof; and provided further that no agreement relating to compensation shall be valid if made within fourteen days of the accident nor shall any such agreement be valid if it vary the percentage of wages payable as compensation or the period during

which compensation is to be paid, as stated in Sections 5 and 6 hereof.

SECTION 19. If default shall be made by the employer for thirty days after demand, in the payment of any amount due under any of the provisions of this Article, then upon petition of any person interested, and after ten days' notice thereof to the employer served in the same manner in which a summons may be served, the court or any judge thereof shall, if the default still exists, enter judgment thereon for the amount or amounts due, together with interest thereon and costs. Upon such judgment, no stay of execution shall be allowed, except in the discretion of the court.

SECTION 20. It shall be the duty of the prothonotary of each court of common pleas to make report monthly to the Bureau of Industrial Statistics of all proceedings begun in such court under this Article of this act, classifying such report in such manner as to show whether the proceedings are brought for the settlement of a dispute as to liability for compensation, for a modification thereof, for a commutation of payments, for a judgment in default of payment, or for fixing of counsel fees; and such report shall state the number and term of each proceeding, but neither names nor further detail need be given unless required by the Bureau of Industrial Statistics.

SECTION 21. Where a third person is liable to the employee or the dependents for the injury or death, the employer shall be subrogated to the right of the employee or the dependents against such third person, but only to the extent of the compensation payable under this Article by the employer. Any recovery against such third person in excess of the compensation theretofore paid by the employer shall be paid forthwith to the employee or to the dependents, and shall be treated as an advance payment by the employer on account of any future installments of compensation.

ARTICLE III.

General Provisions.

SECTION 1. Wherever in this act the singular is used, the plural shall be included; where the masculine gender is used, the feminine and neuter shall be included.

Employer is declared to be synonymous with master and includes natural persons, partnerships, joint stock companies, corporations for profit, corporations not for profit, municipal corporations, the Commonwealth and all governmental agencies created by it. Employee is synonymous with servant, and includes all natural persons who perform service for another for a valuable consideration, exclusive of casual employees, and exclusive of persons not employed in the course of the regular business or domestic affairs of the employer, and exclusive of persons to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished or repaired or adapted for sale in the worker's own home or on other premises not under the control or management of the employer.

The exercise and performance of the powers and duties of a local or other public authority shall, for the purposes of this act, be treated as the trade or business of the authority.

SECTION 2. No claim or agreement for legal services or disbursements in support of any demand made or suit brought under the provisions of any Article of this act shall be an enforceable lien against the amount to be paid as damages or compensation or be valid or binding in any other respect, unless the same be approved in writing by the judge presiding at the trial, or, in case of settlement without trial, by a judge of the common pleas court of the county in which the accident occurred. After such approval, if notice in writing be given to the employer of such claim or agreement for legal services and disbursements, the same shall be a lien against any amount thereafter to be paid as damages or compensation; Provided, however, that where the em-

ployee's compensation is payable by the employer in periodical installments, the court shall fix, at the time of approval, the proportion of each installment to be paid on account of legal services and disbursements.

SECTION 3. If any provision of this act shall be held by any court to be unconstitutional, such judgment shall not affect any other Section or provision of this act, except that Articles I and II are hereby declared to be inseparable and as one legislative thought, and if either Article be declared by such court void or inoperative in an essential part, so that the whole of such Article must fall, the other Article shall fall with it and not stand alone.

SECTION 4. Nothing in this act shall affect or impair any right of action which shall have accrued before this act shall take effect.

SECTION 5. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

SECTION 6. This act shall take effect on the first day of July next succeeding its passage and approval, and shall be known as the "Workmen's Compensation Law of 1913."

EXHIBIT "E."**AN ACT**

TO PROVIDE FOR THE INCORPORATION AND REGULATION OF
EMPLOYERS' MUTUAL LIABILITY INSURANCE ASSOCIA-
TIONS.

SECTION 1. Be it enacted, etc., that any twenty or more employers, who have in the aggregate not less than five thousand employees in the State of Pennsylvania, and who have accepted the provisions of Article II of the Workmen's Compensation Law of 1913, may form an incorporated employers' mutual liability insurance association for the purpose of insuring themselves and such other employers as may become subscribers to the association, against liability for the compensation payable under the terms of Article II of such Act.

SECTION 2. The articles of association thereof shall state:—

- (a.) The name of the association.
- (b.) The place of its principal office.
- (c.) The duration of the association.
- (d.) The name and address of its treasurer.

Any name not in use by an existing association may be adopted, but must clearly designate the object and purpose of the association.

SECTION 3. The subscribers to said articles of agreement shall acknowledge the same before some person empowered to take acknowledgments of deeds, and forward the same in duplicate to the Commissioner of Insurance, who shall certify in duplicate to the Governor whether all of the requirements hereof have been complied with. Whereupon the Governor shall, in case he approves the application, endorse his approval thereon in duplicate, and cause letters patent to issue creating the subscribers and their associates a body corporate,

under the name designated in said articles, but such association shall not engage in business until the further provisions of this act have been complied with.

SECTION 4. Such association shall not begin to issue policies until a list of the subscribers, with the number of employees of each, together with such other information as the Commissioner of Insurance may require, shall have been filed at the Insurance Department, nor until the President and Secretary of the association shall have certified under oath that every subscription in the list so filed is genuine and made with an agreement of all the subscribers that they will take the policies subscribed for within thirty days of the granting of a license by the Commissioner of Insurance.

SECTION 5. Upon the filing of the certificate provided for in the preceding section, the Commissioner of Insurance shall make such investigations as he may deem proper, and if his findings warrant it, grant a license to the association to issue policies.

SECTION 6. Charters under this act may be perpetual, or limited in time, as the articles of agreement shall specify.

SECTION 7. Such association shall have the power to make by-laws for the government of its officers and the conduct of its affairs, and the same to alter and amend; and adopt a common seal.

SECTION 8. The annual meeting for the election of directors shall be held at such time in the month of January as the by-laws of the association may direct. Of the time and place of said meeting at least thirty days' previous written or printed notice shall be given to the subscribers, or such notice may be given by publication not less than three times in at least two daily or weekly

newspapers, published in the city or county wherein the association has its principal office, and in the legal periodical, if any, designated by the rules of court of the proper county for the publication of legal notices. Subscribers who, during the preceding calendar year, have paid into the treasury of the association, premiums amounting to more than one-half of the total premiums received by it during that year, shall constitute a quorum. At such annual meeting the subscribers shall elect, by ballot, from their own number, not less than five directors, a majority of whom shall be residents of this Commonwealth, to serve for at least one year and until their successors are duly chosen: *Provided, however,* that such association may provide in its by-laws for the division of its Board of Directors into two, three or four classes, and for the election thereof, at its annual meetings, in such manner that the members of one class only shall retire and their successors be chosen each year. Vacancies may be filled by election by the Board until the next annual meeting. In the choice of directors and in all meetings of the association, each subscriber shall be entitled to one vote for every one hundred dollars or any fraction thereof paid by him in premiums into the treasury of the association during the preceding calendar year. Subscribers may vote by proxy, and the record of all votes shall be made by the Secretary, and shall show whether the same were cast in person or by proxy and shall be evidence of all such elections. Not less than three directors shall constitute a quorum. The directors shall annually choose, by ballot, a President, who shall be a member of the Board; a Secretary; a Treasurer, who may also be either the President or Secretary; and such other officers as the by-laws may provide; and they shall fix the salaries of the President and Secretary, as well as the salaries or compensation of such other officers and agents as the by-laws prescribe. Vacancies in any office may be filled by the directors or by the subscribers, as the by-laws shall prescribe.

SECTION 9. Policies of insurance issued by any such association may be made either with or without the seal thereof, and they shall be signed by the President, or such other officers as may be designated by the directors for that purpose, and attested by the Secretary.

SECTION 10. If at any time the number of subscribers falls below twenty, or the number of the subscribers' employees within the State falls below five thousand, no further policies shall be issued until the total number of subscribers amounts to not less than twenty, whose employees within the State are not less than five thousand.

SECTION 11. The Board of Directors shall be entitled to inspect the plant, work-room, shop, farm or premises of any subscriber, and for such purpose to appoint inspectors, who shall have free access to all such premises during the regular working hours, and the Board of Directors shall likewise from time to time be entitled to examine by their auditor or other agent, the books, records and payrolls of any subscriber, for the purpose of determining the amount of premium chargeable to such subscriber.

The Board of Directors shall make reasonable rules and regulations for the prevention of injuries upon the premises of subscribers; and they may refuse to insure or may terminate the insurance of any subscriber who refuses to permit such examinations or disregards such rules or regulations, and forfeit all premiums previously paid by him, but such termination of the insurance of any subscriber shall not release him from liability for the payment of assessments then or thereafter made by the Board of Directors to make up deficiencies existing at the termination of his insurance.

SECTION 12. Every subscriber to such association shall be under a contingent mutual liability for the payment of losses and expenses in excess of the cash funds of the association to an amount equal to the premium paid by him during the current year.

SECTION 13. The Board of Directors shall determine the amount of the premiums which the subscribers of the association shall pay for their insurance, in accordance with the nature of the business in which such subscribers are engaged, and the probable risk of injury to their employees under existing conditions, and they shall fix premiums at such amounts as in their judgment, subject to the approval of the Commissioner of Insurance, shall be sufficient to enable the association to pay to its subscribers all sums which may become due and payable to their employees under the provisions of Article II of the Workmen's Compensation Law of 1913, and also the expenses of conducting the business of the association. In fixing the premium payable by any subscriber, the Board of Directors may take into account the condition of the plant, work-room, shop, farm or premises of such subscriber in respect to the safety of those employed therein, as shown by the report of any inspector appointed by such Board, and they may from time to time change the amount of premiums payable by any of the subscribers as circumstances may require, and the condition of the plant, work-room, shop, farm or premises of such subscriber in respect to the safety of their employees may justify, and they may increase the premiums of any subscriber neglecting to provide safety devices required by law, or disobeying the rules or regulations made by the Board of Directors in accordance with the provisions of Section eleven of this Act. No policy of insurance issued to any subscriber shall be effective until he shall have paid in cash the premium so fixed and determined.

SECTION 14. If the association be not possessed of cash funds, over and above its unearned premiums, on undetermined risks, sufficient for the payment of incurred losses and expenses, it shall make an assessment for the amount needed to pay such losses and expenses upon the subscribers liable to assessment therefor. in proportion to their several liabilities.

SECTION 15. The Board of Directors may from time to time fix and determine the amount to be paid as dividends upon policies expiring each year, after retaining the unearned premiums upon undetermined risks and sufficient sums to pay all the compensation then payable, or which may become payable on account of injuries received by employees of the subscribers, and to pay the expenses incurred in the operation of the business of the association.

SECTION 16. The Board of Directors may divide the subscribers into groups in accordance with the nature of their business and the probable risk of injury therein. In such case they shall fix all premiums, make all assessments, and determine and pay all dividends by and for each group in accordance with the experience thereof, but all funds of the association and the contingent liability of all the subscribers shall be available for the payment of any claim against the association: *Provided, however,* that (as between the association and its subscribers), until the whole of the contingent liability of the members of any group shall be exhausted, the general funds of the association and the contingent liability of the members of other groups shall not be available for the payment of losses and expenses incurred by such group in excess of the earned premiums paid by the members thereof.

SECTION 17. A statement of any proposed premium, assessment, dividend or distribution of subscribers into groups, shall be filed with the Insurance Department and shall not take effect until approved by the Commissioner of Insurance.

SECTION 18. If any officer of the association shall falsely make oath to any certificate required to be filed with the Commissioner of Insurance, he shall be guilty of perjury.

SECTION 19. Any subscriber of the association who has complied with all its rules and regulations, may withdraw therefrom by written notice to that effect, sent by such sub-

scriber by registered mail to the association, and such withdrawal shall become effective on the first day of the month immediately following the tenth day after the receipt of such notice, but such withdrawal shall not release such subscriber from liability for the payment of assessments thereafter made by the Board of Directors to make up deficiencies existing at the date of his withdrawal, and such subscriber shall be entitled to his share of any dividends earned at the date of his withdrawal.

SECTION 20. If the Commissioner of Insurance shall find that more than fifty per centum of the contingent liability of all the subscribers is required to pay accrued losses, after charging against the funds in hand the unearned premiums on undetermined risks, no further insurance shall be issued until the subscribers have made good such deficiency.

SECTION 21. Such association shall invest and keep invested all its funds of every description, excepting such cash as may be required in the transaction of its business, as follows:—

First.—In such real estate as it is authorized to hold by Section 22 of this Act.

Second.—In bonds of the United States or the District of Columbia, or of any State or territory of the United States.

Third.—In the legally authorized bonds or notes of any city, county, township, municipality, school or water district of this Commonwealth, or of any other State or territory of the United States or Canada.

Fourth.—In the bonds or notes of any solvent railroad or street railway corporation, upon which no default in interest has been made.

Fifth.—In loans upon improved and unincumbered real estate; *provided*, that no loan on such real estate shall ex-

ceed sixty-six and two-thirds per centum of the fair market value thereof at the time of making such loan.

SECTION 22. No such association shall purchase, hold, or convey real estate, except for the purpose and in the manner herein set forth, to wit,—

First.—Such as shall be requisite for its convenient accommodation in the transaction of its business.

Second.—Such as shall have been mortgaged to it to secure loans previously contracted or for moneys due.

Third.—Such as shall have been conveyed to it in satisfaction of debts.

Fourth.—Such as shall have been purchased at sales, upon judgments, decrees, or mortgages obtained or made for debts due the association, or for debts due other persons, where said association may have liens or incumbrances of the same.

Any real estate purchased under the second, third or fourth paragraphs of this section, which has been held for a period of more than five years from the date of its purchase, shall be sold and disposed of within a period of six months after notice to the association from the Insurance Commissioner to sell and convey the same: *Provided, however,* that the Commissioner may extend the time for such disposition if he believes the interest of the association will suffer materially by a forced sale.

SECTION 23. Any money of such association, over and above the unearned premiums on undetermined risks and such sums as are required to pay all accrued losses, may be invested in the securities above enumerated or loaned upon the security of the same; or in the stock or other evidence of indebtedness of any solvent, dividend-paying corporation, created under the laws of this Commonwealth or of any other State of the United States or

loaned upon the pledge of the same, except its own stock or the stock of any other insurance company: *Provided*, the current market value of such security shall be at least twenty per centum more than the sum loaned thereon. But no such association shall invest any of its funds in any unincorporated business or enterprise, nor in the stocks or evidence of indebtedness of any corporation the owners or holders of which stock or evidence of indebtedness may in any event be or become liable on account thereof of any assessment, except for taxes; not more than one-fifth of its capital shall be invested in a single mortgage, nor shall any of its funds be loaned on personal security alone. No such association shall invest in, acquire or hold, directly or indirectly more than ten per centum of the securities of any single company, nor shall more than ten per centum of its assets be invested in the stock of a single company. No such association shall enter into an agreement to withhold from sale of any of its property; but the disposition of its property shall be at all times within the control of its Board of Directors. If any investment or loan is made in a manner not authorized by this Act, the officers and directors making or authorizing the same shall be personally liable for any loss occasioned thereby.

EXHIBIT "F."

AN ACT.

REGULATING POLICIES OF INSURANCE AGAINST LIABILITY-
ARISING UNDER ARTICLE II OF THE WORKMEN'S COM-
PENSATION LAW OF 1913.

SECTION 1. *Be it enacted, &c.,* That no policy of insurance against liability arising under Article II of The Workmen's Compensation Law of 1913 shall be made unless the same shall contain the agreement of the insurer that, in the event of the failure of the insured promptly to pay any installment of compensation insured against, the insurer will forthwith make such payments to the injured employee, or the dependents of the deceased employee, and that the obligation shall not be affected by any default of the insured, after the accident, in the payment of premiums or in the giving of any notices required by such policy or otherwise. Such agreement shall be construed to be a direct promise to such injured employee and to such dependents, enforceable by action brought in the name of such injured employee and in the name of such dependents.

SECTION 2. No suit shall be maintained for the collection of premiums upon any such policy of insurance, unless said covenant is contained in said policy.

SECTION 3. No insurer shall pay, directly or indirectly, to any agent, broker or other representative, for writing or procuring such insurance and collecting the premium thereon, more than fifteen per cent. of the annual premium on such insurance, either as commission, compensation, expenses or otherwise; and any insurer violating this section of this act shall for each offense pay to the Commonwealth a penalty of Five hundred Dollars, to be recovered in an action brought by the Insurance Commissioner.

SECTION 4. No policy of insurance against liability arising under said article of said law shall contain any limitation of the liability of the insurer to an amount less than that payable by the insured under said Article of said Law, nor shall any such policy contain any limitation of the total liability of the insurer because of injuries to two or more persons in a single accident; nor shall any action be maintained for the collection of premiums on any policy violating this section.

SECTION 5. All acts and parts of acts inconsistent herewith are hereby repealed.

EXHIBIT "G."

AN ACT

AUTHORIZING THE APPOINTMENT OF A COMMISSION TO INQUIRE INTO THE CAUSES AND RESULTS OF INDUSTRIAL ACCIDENTS, TO STUDY ADVANCED METHODS FOR SAFEGUARDING AGAINST THE SAME, TO INQUIRE INTO THE SUBJECT OF FAIR COMPENSATION FOR THOSE INJURED OR KILLED AS A RESULT THEREOF, AND TO STUDY THE OPERATION AND EFFECT OF THE WORKMEN'S COMPENSATION LAW OF 1913, AND MAKING AN APPROPRIATION FOR THE EXPENSES OF SAID COMMISSION.

SECTION 1. Be it enacted, etc., That the Governor is hereby authorized to appoint a commission of seven persons, to be known as the Industrial Accidents Commission,—two of whom shall be employers of labor, two of whom shall be employees in either mines or industrial establishments of this Commonwealth or duly accredited representatives thereof, two of whom shall be learned in the law, and one of whom shall be a person skilled and experienced in making investigations,—to inquire into the causes and results of industrial accidents in the mines, mills, factories, stores and upon the railroads, street railways, ships, wharves and in all industrial establishments, and in all other places where men, women and children are employed in manual labor in this Commonwealth; to study the most advanced methods for safeguarding against these accidents; to inquire into the subject of fair compensation for those who are injured in these accidents and for the families of those who shall be killed as a result thereof; and to study the operation and effect of the Workmen's Compensation Law of 1913.

SECTION 2. The chairman of said commission shall be designated by the Governor, and the person named on said commission as a skilled and experienced investigator shall be the secretary of the commission. The commission shall have power to employ such legal counsel and other officers

and employees as it may deem necessary to properly perform its duties.

SECTION 3. The secretary of said commission shall receive an annual salary of two thousand four hundred dollars (\$2,400), and his actual necessary expenses; and the other members of the commission shall receive no compensation for their services, but shall be allowed their actual traveling and other necessary expenses. The salaries of any other persons employed by the commission shall be fixed by it.

SECTION 4. Said commission shall make a full report in writing of its findings, together with such recommendations as it may deem proper, to the next meeting of the General Assembly, which will convene in January, one thousand nine hundred and fifteen.

SECTION 5. The sum of twelve thousand dollars (\$12,000), or so much thereof as may be necessary, be and the same is hereby appropriated for the expenses of said commission. The said expenses shall be paid on warrant duly signed by the chairman of the commission.

